

HOUSE BILL 1456

By Ramsey

AN ACT to amend Tennessee Code Annotated, Title 39
and Title 55, Chapter 8, Part 2, relative to smoking
and vaping in vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 8, Part 2, is amended by
adding the following as a new section:

(a) As used in this section:

(1) "Enclosed motor vehicle" means a motor vehicle equipped with a roof,
doors, windows, and a windshield, and does not include a motor vehicle with a
folding or detachable roof when the roof is folded or detached;

(2) "Motor vehicle" has the same meaning as defined in § 55-8-101,
except that "motor vehicle" does not include a recreational vehicle as defined in §
55-28-102; and

(3) "Tobacco product" and "vapor product" have the same meanings as
defined in § 39-17-1503.

(b) It is an offense for the operator or a passenger of an enclosed motor vehicle
to smoke any tobacco product or use any vapor product in a motor vehicle when a child
who is secured by a child safety seat in a motor vehicle or who is required by § 55-9-602
to be secured in a child safety seat in a motor vehicle is also present in the vehicle,
regardless of whether the windows of the motor vehicle are down.

(c)

(1) A violation of subsection (b) is punishable as follows:

(A) A first offense is punishable only by the issuance of a warning citation;

(B) A second offense is a Class C misdemeanor punishable only by a fine of twenty dollars (\$20.00) and court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers; and

(C) A third or subsequent offense is a Class C misdemeanor punishable only by a fine of fifty dollars (\$50.00) and court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers.

(2) State and local litigation taxes shall not apply to a case prosecuted under this section.

(3) Notwithstanding subdivision (b)(1), a law enforcement officer may issue a verbal warning or issue a warning citation at any time for a violation of subsection (a).

(d)

(1) A violation of this section shall not be considered a primary offense, and a law enforcement officer shall not stop a motor vehicle solely because of a violation of this section.

(2) A violation of this section must be based solely upon a law enforcement officer's clear and unobstructed view of a person smoking or vaping as prohibited by this section.

(3) A law enforcement officer shall not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section; except, that this subdivision (d)(3) does not prevent the application of the plain view doctrine.

(e) A traffic citation that is based solely upon a violation of this section is considered a nonmoving traffic violation, and points shall not be added to a driver record for the violation.

(f) The department of transportation is directed to utilize the department's permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to the provisions of this section.

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it.